

A NONSUBSTANTIVE REVISION  
OF STATUTES RELATING TO  
INSURANCE FEES AND TAXES, CONSUMER INTERESTS,  
HEALTH INSURANCE AND RELATED PRODUCTS, TITLE INSURANCE,  
AND INSURANCE INDUSTRY PROFESSIONALS

Submitted to the 78th Legislature  
as part of the  
Texas Legislative Council's  
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1 APPENDIX B

2 CHAPTER 311. CODE CONSTRUCTION ACT

3 (current as of end of 78th Legislature, Regular Session, 2003)

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 311.001. SHORT TITLE. This chapter may be cited as  
6 the Code Construction Act.

7 Sec. 311.002. APPLICATION. This chapter applies to:

8 (1) each code enacted by the 60th or a subsequent  
9 legislature as part of the state's continuing statutory revision  
10 program;

11 (2) each amendment, repeal, revision, and reenactment  
12 of a code or code provision by the 60th or a subsequent legislature;

13 (3) each repeal of a statute by a code; and

14 (4) each rule adopted under a code.

15 Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in  
16 this chapter are not exclusive but are meant to describe and clarify  
17 common situations in order to guide the preparation and  
18 construction of codes.

19 Sec. 311.004. CITATION OF CODES. A code may be cited by its  
20 name preceded by the specific part concerned. Examples of  
21 citations are:

22 (1) Title 1, Business & Commerce Code;

23 (2) Chapter 5, Business & Commerce Code;

24 (3) Section 9.304, Business & Commerce Code;

25 (4) Section 15.06(a), Business & Commerce Code; and

26 (5) Section 17.18(b)(1)(B)(ii), Business & Commerce  
27 Code.

28 Sec. 311.005. GENERAL DEFINITIONS. The following  
29 definitions apply unless the statute or context in which the word or  
30 phrase is used requires a different definition:

31 (1) "Oath" includes affirmation.

32 (2) "Person" includes corporation, organization,  
33 government or governmental subdivision or agency, business trust,  
34 estate, trust, partnership, association, and any other legal

1 entity.

2 (3) "Population" means the population shown by the  
3 most recent federal decennial census.

4 (4) "Property" means real and personal property.

5 (5) "Rule" includes regulation.

6 (6) "Signed" includes any symbol executed or adopted  
7 by a person with present intention to authenticate a writing.

8 (7) "State," when referring to a part of the United  
9 States, includes any state, district, commonwealth, territory, and  
10 insular possession of the United States and any area subject to the  
11 legislative authority of the United States of America.

12 (8) "Swear" includes affirm.

13 (9) "United States" includes a department, bureau, or  
14 other agency of the United States of America.

15 (10) "Week" means seven consecutive days.

16 (11) "Written" includes any representation of words,  
17 letters, symbols, or figures.

18 (12) "Year" means 12 consecutive months.

19 (13) "Includes" and "including" are terms of  
20 enlargement and not of limitation or exclusive enumeration, and use  
21 of the terms does not create a presumption that components not  
22 expressed are excluded.

23 Sec. 311.006. INTERNAL REFERENCES. In a code:

24 (1) a reference to a title, chapter, or section  
25 without further identification is a reference to a title, chapter,  
26 or section of the code; and

27 (2) a reference to a subtitle, subchapter, subsection,  
28 subdivision, paragraph, or other numbered or lettered unit without  
29 further identification is a reference to a unit of the next larger  
30 unit of the code in which the reference appears.

#### 31 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

32 Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a)  
33 Words and phrases shall be read in context and construed according  
34 to the rules of grammar and common usage.

1 (b) Words and phrases that have acquired a technical or  
2 particular meaning, whether by legislative definition or  
3 otherwise, shall be construed accordingly.

4 Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the  
5 present tense include the future tense.

6 (b) The singular includes the plural and the plural includes  
7 the singular.

8 (c) Words of one gender include the other genders.

9 Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A  
10 grant of authority to three or more persons as a public body confers  
11 the authority on a majority of the number of members fixed by  
12 statute.

13 (b) A quorum of a public body is a majority of the number of  
14 members fixed by statute.

15 Sec. 311.014. COMPUTATION OF TIME. (a) In computing a  
16 period of days, the first day is excluded and the last day is  
17 included.

18 (b) If the last day of any period is a Saturday, Sunday, or  
19 legal holiday, the period is extended to include the next day that  
20 is not a Saturday, Sunday, or legal holiday.

21 (c) If a number of months is to be computed by counting the  
22 months from a particular day, the period ends on the same numerical  
23 day in the concluding month as the day of the month from which the  
24 computation is begun, unless there are not that many days in the  
25 concluding month, in which case the period ends on the last day of  
26 that month.

27 Sec. 311.015. REFERENCE TO A SERIES. If a statute refers  
28 to a series of numbers or letters, the first and last numbers or  
29 letters are included.

30 Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following  
31 constructions apply unless the context in which the word or phrase  
32 appears necessarily requires a different construction or unless a  
33 different construction is expressly provided by statute:

34 (1) "May" creates discretionary authority or grants

1 permission or a power.

2 (2) "Shall" imposes a duty.

3 (3) "Must" creates or recognizes a condition  
4 precedent.

5 (4) "Is entitled to" creates or recognizes a right.

6 (5) "May not" imposes a prohibition and is synonymous  
7 with "shall not."

8 (6) "Is not entitled to" negates a right.

9 (7) "Is not required to" negates a duty or condition  
10 precedent.

#### 11 SUBCHAPTER C. CONSTRUCTION OF STATUTES

12 Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In  
13 enacting a statute, it is presumed that:

14 (1) compliance with the constitutions of this state  
15 and the United States is intended;

16 (2) the entire statute is intended to be effective;

17 (3) a just and reasonable result is intended;

18 (4) a result feasible of execution is intended; and

19 (5) public interest is favored over any private  
20 interest.

21 Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A  
22 statute is presumed to be prospective in its operation unless  
23 expressly made retrospective.

24 Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a  
25 statute, whether or not the statute is considered ambiguous on its  
26 face, a court may consider among other matters the:

27 (1) object sought to be attained;

28 (2) circumstances under which the statute was enacted;

29 (3) legislative history;

30 (4) common law or former statutory provisions,  
31 including laws on the same or similar subjects;

32 (5) consequences of a particular construction;

33 (6) administrative construction of the statute; and

34 (7) title (caption), preamble, and emergency

1 provision.

2       Sec. 311.024. HEADINGS. The heading of a title, subtitle,  
3 chapter, subchapter, or section does not limit or expand the  
4 meaning of a statute.

5       Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)  
6 Except as provided by Section 311.031(d), if statutes enacted at  
7 the same or different sessions of the legislature are  
8 irreconcilable, the statute latest in date of enactment prevails.

9       (b) Except as provided by Section 311.031(d), if amendments  
10 to the same statute are enacted at the same session of the  
11 legislature, one amendment without reference to another, the  
12 amendments shall be harmonized, if possible, so that effect may be  
13 given to each. If the amendments are irreconcilable, the latest in  
14 date of enactment prevails.

15       (c) In determining whether amendments are irreconcilable,  
16 text that is reenacted because of the requirement of Article III,  
17 Section 36, of the Texas Constitution is not considered to be  
18 irreconcilable with additions or omissions in the same text made by  
19 another amendment. Unless clearly indicated to the contrary, an  
20 amendment that reenacts text in compliance with that constitutional  
21 requirement does not indicate legislative intent that the reenacted  
22 text prevail over changes in the same text made by another  
23 amendment, regardless of the relative dates of enactment.

24       (d) In this section, the date of enactment is the date on  
25 which the last legislative vote is taken on the bill enacting the  
26 statute.

27       (e) If the journals or other legislative records fail to  
28 disclose which of two or more bills in conflict is latest in date of  
29 enactment, the date of enactment of the respective bills is  
30 considered to be, in order of priority:

31               (1) the date on which the last presiding officer  
32 signed the bill;

33               (2) the date on which the governor signed the bill; or

34               (3) the date on which the bill became law by operation

1 of law.

2       Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER  
3 GENERAL. (a) If a general provision conflicts with a special or  
4 local provision, the provisions shall be construed, if possible, so  
5 that effect is given to both.

6       (b) If the conflict between the general provision and the  
7 special or local provision is irreconcilable, the special or local  
8 provision prevails as an exception to the general provision, unless  
9 the general provision is the later enactment and the manifest  
10 intent is that the general provision prevail.

11       Sec. 311.027. STATUTORY REFERENCES. Unless expressly  
12 provided otherwise, a reference to any portion of a statute or rule  
13 applies to all reenactments, revisions, or amendments of the  
14 statute or rule.

15       Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A  
16 uniform act included in a code shall be construed to effect its  
17 general purpose to make uniform the law of those states that enact  
18 it.

19       Sec. 311.029. ENROLLED BILL CONTROLS. If the language of  
20 the enrolled bill version of a statute conflicts with the language  
21 of any subsequent printing or reprinting of the statute, the  
22 language of the enrolled bill version controls.

23       Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a  
24 repealing statute does not revive the statute originally repealed  
25 nor impair the effect of any saving provision in it.

26       Sec. 311.031. SAVING PROVISIONS. (a) Except as provided  
27 by Subsection (b), the reenactment, revision, amendment, or repeal  
28 of a statute does not affect:

29           (1) the prior operation of the statute or any prior  
30 action taken under it;

31           (2) any validation, cure, right, privilege,  
32 obligation, or liability previously acquired, accrued, accorded,  
33 or incurred under it;

34           (3) any violation of the statute or any penalty,

1 forfeiture, or punishment incurred under the statute before its  
2 amendment or repeal; or

3 (4) any investigation, proceeding, or remedy  
4 concerning any privilege, obligation, liability, penalty,  
5 forfeiture, or punishment; and the investigation, proceeding, or  
6 remedy may be instituted, continued, or enforced, and the penalty,  
7 forfeiture, or punishment imposed, as if the statute had not been  
8 repealed or amended.

9 (b) If the penalty, forfeiture, or punishment for any  
10 offense is reduced by a reenactment, revision, or amendment of a  
11 statute, the penalty, forfeiture, or punishment, if not already  
12 imposed, shall be imposed according to the statute as amended.

13 (c) The repeal of a statute by a code does not affect an  
14 amendment, revision, or reenactment of the statute by the same  
15 legislature that enacted the code. The amendment, revision, or  
16 reenactment is preserved and given effect as part of the code  
17 provision that revised the statute so amended, revised, or  
18 reenacted.

19 (d) If any provision of a code conflicts with a statute  
20 enacted by the same legislature that enacted the code, the statute  
21 controls.

22 Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any  
23 statute contains a provision for severability, that provision  
24 prevails in interpreting that statute.

25 (b) If any statute contains a provision for  
26 nonseverability, that provision prevails in interpreting that  
27 statute.

28 (c) In a statute that does not contain a provision for  
29 severability or nonseverability, if any provision of the statute or  
30 its application to any person or circumstance is held invalid, the  
31 invalidity does not affect other provisions or applications of the  
32 statute that can be given effect without the invalid provision or  
33 application, and to this end the provisions of the statute are  
34 severable.

1           Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to  
2 preserve the legislature's interest in managing state fiscal  
3 matters through the appropriations process, a statute shall not be  
4 construed as a waiver of sovereign immunity unless the waiver is  
5 effected by clear and unambiguous language. In a statute, the use  
6 of "person," as defined by Section 311.005 to include governmental  
7 entities, does not indicate legislative intent to waive sovereign  
8 immunity unless the context of the statute indicates no other  
9 reasonable construction.